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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/711,381	11/14/2000	David S. Bettinger		7766

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EXAMINER

MACK, RICKY LEVERN

ART UNIT PAPER NUMBER

2873

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/711,381

Applicant(s)

BETTINGER, DAVID S.

Examiner

Ricky L Mack

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☒ Other: *Detailed Action*.

DETAILED ACTION***Allowability Withdrawn***

1. The indicated allowability of claims 1, 3 and 4 is withdrawn in view of the newly discovered reference(s) to Wysocki (6076924). Rejections based on the newly cited reference(s) follow.

Specification

2. The application papers are objected to because they are not a permanent copy as required by 37 CFR 1.52(a). Reference is made to all of the specification.

Applicant is required either (1) to submit permanent copies of the identified parts or (2) to order a photocopy of the above identified parts to be made by the Patent and Trademark Office at applicant's expense for incorporation in the file. See MPEP § 608.01.

Claim Objections

3. Claim 1 is objected to because of the following informalities: Claim 1 refers to a metallized polymer layer. While this term has been established in the specification (Summary of Invention (line 7), it is not elaborated upon such that a distinction can be made between it and the polymer layers detailed in the brief description of the invention which do not include any disclosure of a metallized polymer layer. Should this be referred to as a "polymer layer" rather than a "metallized polymer layer". Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wysocki (6076924).

Wysocki discloses, as in claim 1, a reflective optical element (see fig. 1, 4) substantially including a lens (16) suitable as a substrate, a lens film (20) disposed on the substrate, the lens film including an adhesive layer (24), and a metallized layer (reflective material 22). Wysocki discloses that polymers of does not disclose a polymer layer in association with Wysocki's metallized layer, but by applicant's admission (page 4, lines 21-24), a it is "usual and preferable" for a metallized layer to be "vapor coated or sputtered onto a polymer substrate and applicant goes further to list polymers and to refer to them as being well known. It would therefore be obvious to one of ordinary skill in the art at the time the invention was made to provide the metallized layer of Wysocki with a polymer layer as is well known in the art. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the metallized layer with a polymer layer, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claim 2, Wysocki discloses (refer to figures 1 and 2) a light reflecting surface (20) selected and positioned with the optical train of a spectacle mounted display and viewer.

Regarding claim 4, since Wysocki discloses a reflective surface (20), the examiner find the structure taught by Wysocki is suitable for the display of a limited quantity of text.

Allowable Subject Matter

6. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is an examiner's statement of reasons for allowability: The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claim(s), in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in claim(s) 3, wherein the claimed invention comprises a lens film which is partially transparent, as claimed. The combination of all the claimed features are not anticipated or made obvious by the prior art and all of said features are relied upon for a determination of allowability.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following reference is cited for disclosing optical device having a particular reflective or antireflective surface and/or a polymer layer: Dillon (5928718).


Art Unit: 2873

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky L Mack whose telephone number is (703) 305-6984. The examiner can normally be reached on Monday-Friday (6:30 AM to 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (703) 308-4883. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

RM
July 2, 2003


RICKY MACK
PRIMARY EXAMINER